

REMARKS

The present amendment is submitted in conjunction with a Request for Continued Examination (RCE) and in response to the final Office Action dated March 24, 2008, which set a three-month period for response, making a response due by June 24, 2008.

Claims 1-5 and 7-21 are pending in this application.

In the final Office Action, claims 1-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent WO 03/097299 ("WO '299"). Claims 1, 2, 5-11, and 13-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent WO 03/011527 ("WO '527"). Claim 1 was rejected on grounds of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of copending application 10/578,201.

With regard to the double-patenting rejection, the Applicants intend to file a terminal disclaimer with regard to copending application 10/578,201.

In the present amendment, claim 1 has been amended to add the features of claim 6, which was canceled, along with the feature that the hub 16 includes a second fastening means. This feature is disclosed on page 4, lines 24-25. Claim 11 was amended to adopt the same language as amended claim 1.

In addition, new claims 17-21 have been added. Support for new claim 17 can be found on page 4, lines 25-26. The features of new claim 18 can be found on page 4, lines 24-25 and 27-28. The limitations of claim 19 are disclosed on page 4, lines 14-25 as well as on page 5, lines 2-3. The features of new claim 20

are found on page 5, lines 3-4. Finally, the limitations of new claim 21 are disclosed on page 5, lines 4-5.

The Applicants respectfully submit that the cited references do not render unpatentable the subject matter of the amended claims.

Amended claim 1 defines a different embodiment of a release region of a second fastening means of the hub 16. The second fastening means of the present invention is comprised of two slots, which abut each other along their long sides partially. In this manner, a narrower fastening region 62 and a wider release region 66 is obtained, on which a region 70 on the side facing away from the retaining region connects.

This embodiment of the second fastening means is neither disclosed nor suggested by the cited references. In WO '299, the second fastening means 78 are formed respectively one slot 80, on whose shorter side a circular release region 82 connects (see WO '299 Fig. 2). In WO '527, the second fastening means 26 are formed respectively by a narrow region 84 formed from a slot and a wide region 86 formed by a release region (see WO '527, Fig. 6).

In addition, based on the form of a release region in WO '299 and also in WO '527, an unwanted error in mounting of the insertion tool to the tool receptacle or the take up device of the angle grinder based on the development of a release region is possible, and indeed while an operator of the tool presses on the take up device in a direction opposite to mounting. In operator of the hand power tool, this can lead to a loss of the tool by blowing off of the tool, which can lead to substantial injury of the operator.

In order to avoid this disadvantage and enable a safe mounting to the tool machine, in the present invention, the region 70 is connected to the release region 66 of the second fastening means, which prevents a mounting error of the insertion tool to the tool receiver or the take up device of the angle grinder for an operator, while NO engagement service for an attachment means of the tool receiver in this region 70 of the second fastening means is provided, rather a region 70 formed by a partial region of the slot.

In addition, an arrangement of the first fastening means to the insertion tool of the present invention differs in its structure from WO '299, in that the insertion tool of the present invention was developed for a more high performance angle grinder. In this regard, the assembly and/or the structure of the first fastening means of the present invention resolves the object of providing a tool encoding, which for protection of an operator, prevents mounting of unsuitable insertion tools, in particular of insertion tools developed for lower performance angle grinders. Thus, the dimensions, in particular a radius, or the dimensions for arranging the insertion tool are sized about 10% larger than in WO '299. thus, the present dimensions, in particular, a radius or dimensions for assembly the first fastening means of the insertion tool, would not be obvious to the practitioner in the relevant technical field.

In addition, it would not be obvious to use an already existing, balanced geometry or dimensioning, such as those disclosed in WO '299 and WO '527, to assume different geometries or dimensions for an insertion tool for a high performance angle grinder and to compensate the higher specifications required

by the high performance angle grinder to the insertion tool by a material selection and/or an increased material thickness that differs from the state of the art.

The present invention, therefore, leads the practitioner away the state of the art. It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a *prima facie* case of obviousness as clearly set forth in MPEP section 2143.01. Please note also that the modification proposed by the Examiner would change the principle of operation of the prior art, so that also for this reason the references are not sufficient to render the claims *prima facie* obvious (see the last paragraph of the aforementioned MPEP section 2143.01).

When establishing obviousness under Section 103, it is not pertinent whether the prior art device possess the functional characteristics of the claimed invention, if the reference does not describe or suggest its structure. *In re Mills*, 16 USPQ 2d 1430, 1432-33 (Fed. Cir. 1990).

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker
Attorney for Applicant(s)
Reg. No. 27233

103 East Neck Road
Huntington, New York 11743
631-549-4700